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**SECOND SUBSTITUTE HOUSE BILL 1122**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Doglio, Berry, Reed, Ramel, Simmons, Reeves, Lekanoff, Bergquist, Kloba, Pollet, Donaghy, Fosse, and Ormsby)

AN ACT Relating to granting Washington management service employees the right to collectively bargain; amending RCW 41.06.022 and 41.80.005; adding a new section to chapter 41.80 RCW; and providing an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 41.06.022 and 2002 c 354 s 207 are each amended to read as follows:

For purposes of this chapter, "manager" means any employee who:

(1) Formulates statewide policy or directs the work of an agency or agency subdivision;

(2) Is responsible to administer one or more statewide policies or programs of an agency or agency subdivision;

(3) Manages, administers, and controls a local branch office of an agency or agency subdivision, including the physical, financial, or personnel resources;

(4) Has substantial responsibility in personnel administration, legislative relations, public information, or the preparation and administration of budgets; or

(5) Functionally is above the first level of supervision and exercises authority that is not merely routine or clerical in nature and requires the consistent use of independent judgment.

((~~No employee who is a member~~)) Members of the Washington management service may be included in a collective bargaining unit established under ((~~RCW 41.80.001 and 41.80.010 through 41.80.130~~)) chapter 41.80 RCW, except as provided in section 3 of this act.

**Sec.**  RCW 41.80.005 and 2022 c 71 s 10 are each amended to read as follows:

Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agency" means any agency as defined in RCW 41.06.020 and covered by chapter 41.06 RCW. "Agency" also includes the assistant attorneys general of the attorney general's office and the administrative law judges of the office of administrative hearings, regardless of whether those employees are exempt under chapter 41.06 RCW. "Agency" does not include a comprehensive cancer center participating in a collaborative arrangement as defined in RCW 28B.10.930 that is operated in conformance with RCW 28B.10.930.

(2) "Collective bargaining" means the performance of the mutual obligation of the representatives of the employer and the exclusive bargaining representative to meet at reasonable times and to bargain in good faith in an effort to reach agreement with respect to the subjects of bargaining specified under RCW 41.80.020. The obligation to bargain does not compel either party to agree to a proposal or to make a concession, except as otherwise provided in this chapter.

(3) "Commission" means the public employment relations commission.

(4) "Confidential employee" means an employee who, in the regular course of his or her duties, assists in a confidential capacity persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies, or who assists or aids a manager. "Confidential employee" also includes employees who assist assistant attorneys general who advise and represent managers or confidential employees in personnel or labor relations matters.

(5) "Director" means the director of the public employment relations commission.

(6) "Employee" means any employee, including employees whose work has ceased in connection with the pursuit of lawful activities protected by this chapter, covered by chapter 41.06 RCW. "Employee" includes assistant attorneys general of the office of the attorney general and administrative law judges of the office of administrative hearings, regardless of their exemption under chapter 41.06 RCW. "Employee" does not include:

(a) Employees covered for collective bargaining by chapter 41.56 RCW;

(b) Confidential employees;

(c) Members of the Washington management service excluded from collective bargaining under section 3 of this act;

(d) Internal auditors in any agency; or

(e) Any employee of the commission, the office of financial management, or the office of risk management within the department of enterprise services.

(7) "Employee organization" means any organization, union, or association in which employees participate and that exists for the purpose, in whole or in part, of collective bargaining with employers.

(8) "Employer" means the state of Washington.

(9) "Exclusive bargaining representative" means any employee organization that has been certified under this chapter as the representative of the employees in an appropriate bargaining unit.

(10) "Institutions of higher education" means the University of Washington, Washington State University, Central Washington University, Eastern Washington University, Western Washington University, The Evergreen State College, and the various state community colleges.

(11) "Labor dispute" means any controversy concerning terms, tenure, or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment with respect to the subjects of bargaining provided in this chapter, regardless of whether the disputants stand in the proximate relation of employer and employee.

(12) "Manager" means "manager" as defined in RCW 41.06.022.

(13) "Supervisor" means an employee who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, or to adjust employee grievances, or effectively to recommend such action, if the exercise of the authority is not of a merely routine nature but requires the consistent exercise of individual judgment. ((~~However, no employee who is a member of the Washington management service may be included in a collective bargaining unit established under this section.~~))

(14) "Unfair labor practice" means any unfair labor practice listed in RCW 41.80.110.

(15) "Uniformed personnel" means duly sworn police officers employed as members of a police force established pursuant to RCW 28B.10.550.

NEW SECTION. **Sec.**  A new section is added to chapter 41.80 RCW to read as follows:

(1)(a) Washington management service members who are not otherwise excluded from bargaining under (b) of this subsection are granted the right to collectively bargain.

(b) The following Washington management service members are excluded from bargaining:

(i) Employees in positions within Washington management salary band 3, salary band 4, and medical band, as defined by the office of financial management;

(ii) Human resource managers;

(iii) Budget managers;

(iv) Risk and litigation managers;

(v) Employees in positions whose official primary duties include conducting employee-related investigations including, but not limited to, a possible unfair practice under chapter 49.60 RCW, a possible violation of other federal, state, or local laws or an employing agency's internal policies, and employee misconduct or performance;

(vi) Employees in positions that report directly to an assistant secretary, deputy secretary, agency director, or equivalent, of an agency; and

(vii) Employees in positions excluded under RCW  41.80.005(6).

(c) Bargaining over wages will be limited to Washington management service salary band levels, not individual Washington management service classifications or positions.

(2)(a) Except as provided in (b) of this subsection, the only units that may be designated for the purpose of collective bargaining under this chapter are a supervisory or nonsupervisory unit, as determined by the commission, of all salary band 1 and salary band 2 Washington management service members within an agency that are not otherwise excluded from bargaining under this section.

(b) Subject to the public employment relations commission's review and to avoid excessive fragmentation, more than two bargaining units that otherwise meet the parameters in (a) of this subsection may be designated within a major administrative division of the following agencies: The department of corrections, the department of social and health services, the department of children, youth, and families, the department of transportation, the department of health, the state health care authority, the department of natural resources, the department of enterprise services, the department of ecology, the employment security department, and the department of fish and wildlife.

(3) The governor or the governor's designee and an exclusive bargaining representative shall negotiate for eligible Washington management service members within the bargaining agreements under RCW 41.80.010(2)(a)(i).

(4) No collective bargaining agreement entered into under this section with an exclusive bargaining representative of members of the Washington management service may take effect prior to July 1, 2025.

NEW SECTION. **Sec.**  This act takes effect January 1, 2024.

**--- END ---**